24th Congress, 1st Session. [Doc. No. 116.] Ho. of Reps. Executive.

France and the U.S.

MEDIATION OF GREAT BRITAIN—FRENCH AFFAIRS.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

Copies of the correspondence between the Secretary of State and the Charge d'Affaires of his Britannic Majesty, relative to the disagreement between the United States and France.

FEBRUARY 23, 1836.

Referred to the Committee on Foreign Affairs.

To the Senate and House of Representatives:

I transmit, herewith, to Congress, copies of the correspondence between the Secretary of State, and the Charge d'Affaires of his Britannic Majesty, relative to the mediation of Great Britain in our disagreement with France, and to the determination of the French Government to execute the treaty of indemnification without further delay, on the application for payment by the agent of the United States.

The grounds upon which the mediation was accepted will be found fully developed in the correspondence. On the part of France, the mediation had been publicly accepted before the offer of it could be received here. Whilst each of the two Governments has thus discovered a just solicitude to resort to all honorable means of adjusting amicably the controversy between them, it is a matter of congratulation that the mediation has been rendered unnecessary. Under such circumstances, the anticipation may be confidently indulged, that the disagreement between the United States and France will not have produced more than a temporary estrangement. The healing effects of time, a just consideration of the powerful motives for a cordial good understanding between the two nations, the strong inducements each has to respect and esteem the other, will no doubt soon obliterate from their remembrance all traces of that disagreement.

Of the elevated and disinterested part the Government of Great Britain has acted, and was prepared to act, I have already had occasion to express my high sense. Universal respect, and the consciousness of meriting it, are with Governments, as with men, the just rewards of those who faithfully exert their power to preserve peace, restore harmony, and perpetuate good will.

I may be permitted, I trust, at this time, without a suspicion of the most remote desire to throw off censure from the Executive, or to point it to any

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other Department or branch of the Government, to refer to the want of effective preparation in which our country was found at the late crisis. From the nature of our institutions, the movements of the Government in preparation for hostilities, must ever be too slow for the exigencies of unexpected war. I submit it then to you, whether the first duty we owe to the people who have confided to us their power, is not to place our country in such an attitude as always to be so amply supplied with the means of self-defence, as to afford no inducements to other nations to presume upon our forbearance, or to expect important advantages from a sudden assault, either upon our commerce, our sea coast, or our interior frontier. In case of the commencement of hostilities during the recess of Congress, the time necessarily elapsing before that body could be called together, even under the most favorable circumstances, would be pregnant with danger; and if we escaped without signal disaster or national dishonor, the hazard of both unnecessarily incurred, could not fail to excite a feeling of deep reproach. I earnestly recommend to you, therefore, to make such provisions that in no future time shall we be found without ample means to repel aggression, even although it may come upon us without a note of warning. We are now fortunately so situated that the expenditure for this purpose will not be felt, and if it were, it would be approved by those from whom all its means are derived, and for whose benefit only it should be used with a liberal economy and an enlightened forecast.

In behalf of these suggestions I cannot forbear repeating the wise precepts of one whose counsels cannot be forgotten: "The United States ought not to indulge a persuasion that, contrary to the order of human events, they will forever keep at a distance those painful appeals to arms with which the history of every other nation abounds. There is a rank due to the United States among nations which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it. If we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times ready for war."

ANDREW JACKSON.

February 22, 1836.

WASHINGTON, *January* 27, 1836.

The undersigned, his Britannic Majesty's Charge d'Affaires, has been instructed to state to Mr. Forsyth, the Secretary of State of the United States, that the British Government has witnessed with the greatest pain and regret the progress of the misunderstanding which has lately grown up between the Governments of France and of the United States. The first object of the undeviating policy of the British cabinet, has been to maintain, uninterrupted, the relations of peace between Great Britain and the other nations of the world, without any abandonment of national interests, and without any sacrifice of national honor. The next object to which their anxious and unremitting exertions have been directed, has been, by an appropriate exercise of the good offices and moral influence of Great Britain, to heal dissensions which may have arisen among neighboring powers, and to preserve for other nations, those blessings of peace which Great Britain is so desirous of securing for herself.

The steady efforts of his Majesty's Government have hitherto been fortunately successful in the accomplishment of both these ends; and while Europe, during the last five years, has passed through a crisis of extraordinary hazard, without any disturbance of the general peace, his Majesty's Government has the satisfaction of thinking that it has, on more than one occasion, been instrumental in reconciling differences which might otherwise have led to quarrels, and in cementing union between friendly powers.

But if ever there could be an occasion on which it would be painful to the British Government to see the relations of amity broken off between two friendly States, that occasion is undoubtedly the present, when a rupture is apprehended between two great powers, with both of which Great Britain is united by the closest ties; with one of which she is engaged in active alliance; with the other of which she is joined by community of interest, and by the bonds of kindred.

Nor would the grounds of difference, on the present occasion, reconcile the friends and well-wishers of the differing parties, to the misfortune of an open rupture between them.

When the conflicting interests of two nations are so opposed, on a particular question, as to admit of no possible compromise, the sword may be required to cut the knot which reason is unable to untie.

When passions have been so excited on both sides, that no common standard of justice can be found, and what one party insists on as a right, the other denounces as a wrong, prejudice may become too headstrong to yield to the voice of equity, and those who can agree on nothing else, may consent to abide the fate of arms, and to allow that the party which shall prove the weakest in the war, shall be deemed to have been wrong in the dispute.

But in the present case, there is no question of national interest at issue between France and the United States. In the present case, there is no demand of justice made by one party, and denied by the other. The disputed claims of America on France, which were founded upon transactions in the early part of the present century, and were for many years in litigation, have at length been established by mutual consent, and are admitted by a treaty concluded between the two Governments. The money due by France has been provided by the Chambers, and has been placed at the disposal of the French Government, for the purpose of being paid to the United States. But questions have arisen between the two Governments, in the progress of those transactions, affecting on both sides the feelings of national honor, and it is on this ground that the relations between the parties have been for the moment suspended, and are in danger of being more seriously interrupted.

In this state of things, the British Government is led to think that the good offices of a third power, equally the friend of France and of the United States, and prompted by considerations of the highest order, most earnestly to wish for the continuance of peace, might be useful in restoring a good understanding between the two parties, on a footing consistent with the nicest feelings of national honor in both.

The undersigned has therefore been instructed by his Majesty's Government, formally to tender to the Government of the United States, the mediation of Great Britain, for the settlement of the differences between the United States and France; and to say that a note, precisely similar to the present, has been delivered to the French Government by his Majesty's

Ambassador at Paris. The undersigned has, at the same time, to express the confident hope of his Majesty's Government, that if the two parties would agree to refer to the British Government, the settlement of the point at issue between them, and to abide by the opinion which that Government might, after due consideration, communicate to the two parties thereupon, means might be found of satisfying the honor of each, without incurring those great and manifold evils which a rupture between two such powers must inevitably entail on both.

The undersigned has the honor to renew to Mr. Forsyth the assurance of his most distinguished consideration.

CHARLES BANKHEAD.

DEPARTMENT OF STATE,
Washington, February 3, 1836.

The undersigned, Secretary of State of the United States, has had the honor to receive the note of the 27th ultimo, of Mr. Charles Bankhead, his Britannic Majesty's Charge d'Affaires, offering to the Government of the United States the mediation of his Britannic Majesty's Government for the settlement of the differences unhappily existing between the United States and France. That communication having been submitted to the President, and considered with all the care belonging to the importance of the subject, and the source from which it emanated, the undersigned has been instructed to assure Mr. Bankhead that the disinterested and honorable motives which have dictated the proposal are fully appreciated. The pacific policy of his Britannic Majesty's cabinet, and their efforts to heal dissensions arising among nations, are worthy of the character and commanding influence of Great Britain; and the success of those efforts is as honorable to the Government by whose instrumentality it was secured, as it has been beneficial to the parties more immediately interested, and to the world at large.

The sentiments upon which this policy is founded, and which are so forcibly displayed in the offer that has been made, are deeply impressed upon the mind of the President. They are congenial with the institutions and principles, as well as with the interests and habits, of the people of the United States; and it has been the constant aim of their Government, in its conduct towards other Powers, to observe and illustrate them. Cordially approving the general views of his Britannic Majesty's Government, the President regards with peculiar satisfaction the enlightened and disinterested solicitude manifested by it, for the welfare of the nations to whom its good offices are now tendered, and has seen with great sensibility, in the exhibition of that feeling, the recognition of that community of interests, and those ties of kindred, by which the United States and Great Britain are united.

If circumstances did not render it certain, it would have been obvious from the language of Mr. Bankhead's note to the undersigned that the Government of his Britannic Majesty, when the instructions under which it was prepared were given, could not have been apprised of all the steps taken in the controversy between the United States and France. It was necessarily ignorant of the tenor of the two recent messages of the President to Congress—the first communicated at the commencement of the present session, under date of the 7th of December, 1835, and the second under

that of the 15th of January, 1836. Could these documents have been within the knowledge of his Britannic Majesty's Government, the President does not doubt that it would have been fully satisfied that the disposition of the United States, notwithstanding their well-grounded and serious causes of complaint against France, to restore friendly relations and cultivate a good understanding with the Government of that country, was undiminished, and that all had already been done, on their part, that could in reason be expected of them, to secure that result. The first of these documents, although it gave such a history of the origin and progress of the claims of the United States, and of the proceedings of France before and since the treaty of 1831, as to vindicate the statements and recommendations of the message of the first of December, 1834, yet expressly disclaimed the offensive interpretation put upon it by the Government of France; and while it insisted on the acknowledged rights of the United States, and the obligations of the treaty, and maintained the honor and independence of the American Government, evinced an anxious desire to do all that constitutional duty and strict justice would permit, to remove every cause of irritation and excitement. The special message of the 15th January last, being called for by the extraordinary and inadmissible demands of the Government of France, as defined in the last official communications at Paris, and by the continued refusal of France to execute a treaty, from the faithful performance of which by the United States it was tranquilly enjoying important advantages, it became the duty of the President to recommend such measures as might be adapted to the exigencies of the occasion. Unwilling to believe that a nation distinguished for honor and intelligence could have determined permanently to maintain a ground so indefensible, and anxious still to leave open the door of reconciliation, the President contented himself with proposing to Congress, the mildest of the remedies given by the law and practice of nations, in connection with such propositions for defence as were evidently required by the condition of the United States, and the attitude assumed by France. In all these proceedings, as well as in every stage of these difficulties with France, it is confidently believed that the course of the United States, when duly considered by other Governments and the world, will be found to have been marked, not only by a pacific disposition, but by a spirit of forbearance and conciliation.

For a further illustration of this point, as well as for the purpose of presenting a lucid view of the whole subject, the undersigned has the honor to transmit to Mr. Bankhead, copies of all that part of the message of December 7th, 1835, which relates to it, and of the correspondence referred to therein; and also copies of the message and accompanying documents of the 15th of January, 1836; and of another message of the 18th of the same month, transmitting a report of the Secretary of State, and certain documents connected with the subject.

These papers, while they bring down the history of the misunderstanding between the United States and France to the present date, will also remove an erroneous impression which appears to be entertained by his Britanic Majesty's Government. It is suggested in Mr. Bankhead's note, that there is no question of national interest at issue between France and the United States; and that there is no demand of justice made by the one party and denied by the other. This suggestion appears to be founded on the facts, that the claims of the United States have been admitted by a treaty concluded between the two Governments, and that the money due

by France has been provided by the Chambers, and placed at the disposal of the French Government for the purpose of being paid to the United States. But it is to be observed, that the payment of the money thus appropriated, is refused by the French Government, unless the United States will first comply with a condition not contained in the treaty, and not assented to by them. This refusal to make payment is, in the view of the United States, a denial of justice; and has not only been accompanied by acts and language of which they have great reason to complain, but the delay of payment is highly injurious to those American citizens who are entitled to share in the indemnification provided by the treaty, and to the interests of the United States; inasmuch as the reduction of the duties levied on French wines, in pursuance of that treaty, has diminished the public revenue, and has been, and yet is, enjoyed by France, with all the other benefits of the treaty, without the consideration and equivalents for which they were granted. But there are other national interests, and in the judgment of this Government, national interests of the highest order—involved in the condition prescribed, and insisted on by France, which it has been, by the President, made the duty of the undersigned to bring distinctly into view. That condition proceeds on the assumption that a foreign power, whose acts are spoken of by the President of the United States in a message to Congress, transmitted in obedience to his constitutional duties, and which deems itself aggrieved by the language thus held by him, may, as a matter of right, require from the Government of the United States a direct official explanation of such language, to be given in such form, and expressed in such terms, as shall meet the requirements, and satisfy the feelings, of the offended party; and may, in default of such explanation, annul or suspend a solemn treaty, duly executed by its constitutional organ. Whatever may be the responsibility of those nations whose Executives possess the power of declaring war, and of adopting other coercive remedies without the intervention of the legislative department, for the language held by the Executive in addressing that department, it is obvious that under the constitution of the United States, which gives to the Executive no such powers, but vests them exclusively in the Legislature, whilst at the same time it imposes on the Executive the duty of laying before the Legislature the state of the nation, with such recommendations as he may deem proper, no such responsibility can be admitted without impairing that freedom of intercommunication which is essential to the system, and without surrendering, in this important particular, the right of self-government. In accordance with this view of the federal constitution, has been the practice under it. The statements and recommendations of the President to Congress are regarded by this Government as a part of the purely domestic consultations held by its different departments—consultations in which nothing is addressed to foreign powers, and in which they cannot be permitted to interfere; and for which, until consummated and carried out by acts emanating from the proper constitutional organs, the nation is not responsible, and the Government not liable to account to other States.

It will be seen, from the accompanying correspondence, that when the condition referred to was first proposed in the Chamber of Deputies, the insuperable objections to it were fully communicated by the American minister at Paris, to the French Government; and that he distinctly informed it, that the condition, if prescribed, could never be complied with. The views expressed by him were approved by the President, and have

been since twice asserted and enforced by him in his messages to Congress, in terms proportioned, in their explicitness and solemnity, to the conviction he entertains of the importance and inviolability of the principle involved.

The United States cannot yield this principle, nor can they do, or consent to, any measure, by which its influence in the action of their political system can be obstructed or diminished. Under these circumstances, the President feels that he may rely on the intelligence and liberality of his Britannic Majesty's Government, for a correct estimation of the imperative obligations which leave him no power to subject this point to the control of any foreign State, whatever may be his confidence in its justice and impartiality—a confidence which he has taken pleasure in instructing the undersigned to state is fully reposed by him in the Government of his Britannic Majesty.

So great, however, is the desire of the President for the restoration of a good understanding with the Government of France, provided it can be effected on terms compatible with the honor and independence of the United States; that if, after the frank avowal of his sentiments upon the point last referred to, and the explicit reservation of that point, the Government of his Britannic Majesty shall believe that its mediation can be useful in adjusting the differences which exist between the two countries, and in restoring all their relations to a friendly footing, he instructs the undersigned to inform Mr. Bankhead, that in such case, the offer of mediation, made in his note, is cheerfully accepted.

The United States desire nothing but equal and exact justice; and they cannot but hope, that the good offices of a third Power, friendly to both parties, and prompted by the elevated considerations manifested in Mr. Bankhead's note, may promote the attainment of this end.

Influenced by these motives, the President will cordially co-operate, so far as his constitutional powers may enable him, in such steps as may be requisite, on the part of the United States, to give effect to the proposed mediation. He trusts that no unnecessary delay will be allowed to occur, and instructs the undersigned to request, that the earliest information of the measures taken by Great Britain, and of their result, may be communicated to this Government.

The undersigned avails himself of the occasion, to renew to Mr. Bankhead the assurances of his distinguished consideration.

JOHN FORSYTH.

WASHINGTON, *February* 15, 1836.

The undersigned, his Britannic Majesty's Charge d'Affaires, with reference to his note of the 27th of last month, has the honor to inform Mr. Forsyth, Secretary of State of the United States, that he has been instructed by his Government to state, that the British Government has received a communication from that of France, which fulfils the wishes that impelled his Britannic Majesty to offer his mediation for the purpose of effecting an amicable adjustment of the difference between France and the United States.

The French Government has stated to that of his Majesty, that the frank and honorable manner in which the President has, in his recent message, expressed himself with regard to the points of difference between the Go-

vernments of France and of the United States, has removed those difficulties upon the score of national honor, which have hitherto stood in the way of the prompt execution by France of the treaty of the 4th July, 1831, and that, consequently, the French Government is now ready to pay the instalment which is due on account of the American indemnity, whenever the payment of that instalment shall be claimed by the Government of the United States.

The French Government has also stated, that it made this communication to that of Great Britain, not regarding the British Government as a formal mediator, since its offer of mediation had then reached only the Government of France, by which it had been accepted; but looking upon the British Government as a common friend of the two parties, and, therefore, as a natural channel of communication between them.

The undersigned is further instructed to express the sincere pleasure which is felt by the British Government at the prospect thus afforded of an amicable termination of a difference which has produced a temporary estrangement between two nations who have so many interests in common, and who are so entitled to the friendship and esteem of each other; and the undersigned has also to assure Mr. Forsyth that it has afforded the British Government the most lively satisfaction to have been, upon this occasion, the channel of a communication, which they trust, will lead to the complete restoration of friendly relations between the United States and France.

The undersigned has great pleasure in renewing to Mr. Forsyth the assurances of his most distinguished consideration.

CHARLES BANKHEAD.

The Hon. JOHN FORSYTH, &c.

DEPARTMENT OF STATE,

Washington, February 16th, 1836.

The undersigned, Secretary of State of the United States, has had the honor to receive Mr. Bankhead's note of the 15th instant, in which he states, by the instructions of his Government, that the British Government have received a communication from that of France, which fulfils the wishes that impelled his Britannic Majesty to offer his mediation, for the purpose of effecting an amicable adjustment of the differences between France and the United States—that the French Government, being satisfied with the frank and honorable manner in which the President has, in his recent message, expressed himself in regard to the points of difference between the two Governments, and is ready to pay the instalment due on account of the American indemnity, whenever it shall be claimed by the Government of the United States, and that this communication is made to the Government of Great Britain, not as a formal mediator, but as a common friend of both parties.

The undersigned has submitted this note of his Britannic Majesty's Chargé d'Affaires to the President, and is instructed to reply, that the President has received this information with the highest satisfaction; a satisfaction as sincere as was his regret at the unexpected occurrence of the difficulty created by the erroneous impressions heretofore made upon the national sensibility of France. By the fulfilment of the obligations of the convention between the two Governments, the great cause of differen

will be removed, and the President anticipates that the benevolent and magnanimous wishes of his Britannic Majesty's Government will be speedily realized, as the temporary estrangement between the two nations, who have so many common interests, will no doubt be followed by the restoration of their ancient ties of friendship and esteem.

The President has further instructed the undersigned to express to his Britannic Majesty's Government his sensibility at the anxious desire it has displayed to preserve the relations of peace between the United States and France, and the exertions it was prepared to make to effectuate that object, so essential to the prosperity and congenial to the wishes of the two nations, and to the repose of the world.

Leaving his Majesty's Government to the consciousness of the elevated motives which have governed its conduct, and to the universal respect which must be secured to it, the President is satisfied that no expressions, however strong, of his own feelings, can be appropriately used, which could add to the gratification afforded to his Majesty's Government, at being the channel of communication to preserve peace, and restore good will, between differing nations, each of whom is its friend.

The undersigned avails himself of this occasion, to renew to Mr. Bankhead the assurance of his distinguished consideration.

JOHN FORSYTH.

CHARLES BANKHEAD, Esq. &c.